TL1527

QUESTION OF COOPERATION WITH REPRESENTATIVES OF UNITED NATIONS HUMAN RIGHTS BODIES

Prosecution of Fernando de Araújo, charged with subversion

1. The indictement of Fernando Araújo enumerates the criminal offences with which this East Timorese Student is charged. The prosecution concentrates on different actions undertaken for the **purpose of obtaining the sympathy of the outside world for that human rights violations had taken place in East Timor,** actions that are qualified as subversive.

Among these actions, the indictment refers to:

1. phone calls to and from Jakarta, Dili, Australia, United Kingdom or Portugal
2. **demonstration in Dili** on the occasion of the visit of the UN human rights envoy, whose visit coincidentaliy would take place on the day of the mass to commemorate the death of Sebastião Rangel
3. the presence of three foreign journalists who would cover the procession of the mass and the demonstration in Dili with the **purpose of being able to show the outside world that East Timor has not yet been fully integrated**
4. demonstration in Jakarta
5. to receive information on the situation
6. to **receive assistance in the form of cash and medicines** from abroad or from Dili
7. contacts with the Clandestine operation
8. contacts with Fretilin leaders

2. According to the indictment the actions undertaken are **not referred as violent,** but demonstrations, freedom of expression or opinion are simply considered to be criminal acts just because they are linked with political opposition.

This concern is so strong that **members of NGOs, of national or international nature, are listed as simply leaders of external committees of Fretilin** - that is the case of Amnesty International, Tapol or the Comissão para os Direitos do Povo Maubere.

3. This attitude is not a mere form of intimidation but unfortunately has given way to a judicial action based on the Anti-Subversion Law, which admits the death penalty for this kind of actions. A law whose abolition was recommended by the Special Rapporteur on Torture of the Commission on Human Rights, since it did not respect the fundamental human rights recognized by the international instruments adopted in this field.

4. It is in this framework that we would like to recall the different decisions adopted by the Commission on Human Rights on the **question of the cooperation with representatives of the United Nations human rights bodies.** In fact, by this action the Indonesian Government is intentionally hampering the access of East Timorese to the established UN mechanisms for the protection of human rights and fundamental freedoms and preventing them at the same time from availing themselves of the existing procedures.

a) The simple fact of transmitting information on activities of the Indonesian authorities is qualified as a subversion act and the intervention of NGOs, even those acting at the international level, is seen as an act of political struggle.

b) The inclusion of references to members of NGOs is in reality a way of **intimidating those living in East Timor and Indonesia so that they will not keep sending information to the outside world on the existing human rights situation.** It is at the same time a way of **intimidating those defenders of human rights** who are accused of cumplicity or treason for the simple fact of collecting information or campaigning for the respect of human rights principles and norms, particularly when the impunity of those responsible for human rights violations are at stake - as it is the case in East Timor, particularly after the massacre of November 1991.

c) An attitude which reaffirms the actuality of the assessment made by the Special Rapporteur on Torture on his last report presented to the Commission on Human Rights (E/CN4/1992/17, par.278). According to him, "since in a situation of civil war or civil strife the opponent is not readily reognizable, **everyone who does not clearly belong to "us" may be one of "them".** Consenquently, every innocent cytizen or bystander is exposed to the risk of torture, in particular those who give voice to their criticism of the incumbent regime or take up the cause of those whose human rights are violated. **Human rights activists and human rights lawyers are seen as a part of "them" since they are not part of "us".**

In this particular case, it reflects not only a form of intimidation, but has even given way to a judicial action entailing capital punishment - for the simple fact of peacefully promoting human rights!

5. We believe that in this framework one should not forget the fact that, in accordance with the Statement agreed upon by the Commision on Human Rights on the situation of human rights in East Timor, the Indonesian Government has pledge itself to

a) release all civilian involved in non violent activities
b) ensure that all civilian arrested are treated humanely
c) ensure that those brought to trial are assured of proper representation and fair trial.

The action of the Indonesian authorities in the Araujo case should therefore be in compliance with this same commitment, undertaken before the Commission on Human Rights.

6. Futhermore, we would like to recall that the working Group on Arbitrary Detention considered any detention to be arbitrary, thus illegal, whenever it would take place following a provision considered to be incompatible with human rights international standards - and the Anti-subversion Act was so considered by the Special Rapporteur on Torture.

As Non Governmental Organisations acting in the field of human rights we are particularly concerned at this reality and at the particular circunstances of this case, one among several others of identical nature.

We believe that this action designed to prevent the access to and the action of human rights bodies in the United Nations system, should be openly criticised and made public in the reports of the different United Nations representatives, in particular those related to the questions of torture, disappearances, summary and arbitrary executions and arbitrary detention.

And in view of the extremely grave situation faced by Fernando Araújo in this trial, and the recent Statement agreed upon by the Commission on Human Rights, we would ask your urgent intervention in order to ensure that the commitment undertaken by the Indonesian authorities will be fully and effectively respected.

Luis Teotónio Pereira

COMISSÃO PARA OS DIREITOS
DO POVO MAUBERE
Rua Pinheiro Chagas, 77-2.º Esq.
1000 LISBOA - PORTUGAL

TAPOL

TAPOL
111 NORTHWOOD ROAD
THORNTON HEATH
SURREY CR4 8HW
TELEPHONE: 01 771 2904